

STEP 4:

Involvement of Real Property

Amend regulation 18704.2

ATTACHMENT 1:

Regulation 18704.2

1 Amend 2 Cal. Code Regs. section 18704.2 as follows:

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3 **§18704.2. Determining Whether Directly or Indirectly Involved in a Governmental**
4 **Decision: Interest in Real Property.**

5
6 (a) Real property in which a public official has an economic interest is
7 directly involved in a governmental decision if any of the following apply:

8 (1) The real property in which the official has an interest, or any part of that
9 real property, is located within 500 feet of the boundaries (or the proposed boundaries) of
10 the property which is the subject of the governmental decision. For purposes of
11 subdivision (a)(5), real property is located “within 500 feet of the boundaries (or
12 proposed boundaries) of the real property which is the subject of the governmental
13 decision” if any part of the real property is within 500 feet of the boundaries (or proposed
14 boundaries) of the redevelopment project area.

15 (2) The governmental decision involves the zoning or rezoning, annexation or
16 deannexation, sale, purchase, or lease, or inclusion in or exclusion from any city, county,
17 district or other local governmental subdivision, of the real property in which the official
18 has an interest or a similar decision affecting the real property. For purposes of this
19 subdivision, the terms “zoning” and “rezoning” shall refer to the act of establishing or
20 changing the zoning or land use designation on the real property in which the official has
21 an interest.

22 (3) The governmental decision involves the issuance, denial or revocation of a
23 license, permit or other land use entitlement authorizing a specific use or uses of the real
24 property in which the official has an interest.

1 (4) The governmental decision involves the imposition, repeal or modification of
2 any taxes or fees assessed or imposed on the real property in which the official has an
3 interest.

4 (5) The governmental decision is to designate the survey area, to select the project
5 area, to adopt the preliminary plan, to form a project area committee, to certify the
6 environmental document, to adopt the redevelopment plan, to add territory to the
7 redevelopment area, or to rescind or amend any of the above decisions; and real property
8 in which the official has an interest, or any part of it is located within the boundaries (or
9 the proposed boundaries) of the redevelopment area.

10 (6) The decision involves construction of, or improvements to, streets, water,
11 sewer, storm drainage or similar facilities, and the real property in which the official has
12 an interest will receive new or improved services.

13 (b) Notwithstanding subdivision (a) above, real property in which a public
14 official has an interest is not directly involved in a governmental decision, but is
15 indirectly involved if:

16 (1) The decision solely concerns the amendment of an existing zoning ordinance
17 or other land use regulation (such as changes in the uses permitted, or development
18 standards applicable, within a particular zoning category) which is applicable to all other
19 properties designated in that category, which shall be analyzed under ~~Title 2, California~~
20 ~~Code of Regulations, section 2~~ Cal. Code Regs. section 18705.2(b).

21 (2) The decision solely concerns repairs, replacement, or maintenance of existing
22 streets, water, sewer, storm drainage or similar facilities.

1 (3) The decision solely concerns the adoption or amendment of a general plan
2 and all of the following apply:

3 (A) The decision only identifies planning objectives or is otherwise exclusively
4 one of policy. A decision will not qualify under this subdivision if the decision is
5 initiated by the public official, by a person that is an economic interest of the public
6 official, or by a person representing either the public official or an economic interest of
7 the public official.

8 (B) The decision requires a further decision or decisions by the public official's
9 agency prior to implementing the planning or policy objectives. Examples of further
10 decisions include, but are not limited to, permitting, licensing, rezoning, or the approval
11 of or change to a zoning variance, land use ordinance, or specific plan or its equivalent.

12 (C) The decision does not concern an identifiable parcel or parcels, or
13 development project, or the agency's prior, concurrent, or subsequent approval of, or
14 change to, a permit, license, zoning designation, zoning variance, land use ordinance, or
15 specific plan or its equivalent. A decision does not "concern an identifiable parcel or
16 parcels" solely because, in the proceeding before the agency in which the decision is
17 made, the parcel or parcels are merely included in an area depicted on a map or diagram
18 offered in connection with the decision, provided that the map or diagram depicts all
19 parcels located within the agency's jurisdiction and economic interests of the official are
20 not singled out.

21 (c) Definitions - General Plans. The definitions below apply to this regulation:

22 (1) A decision "solely concerns the adoption or amendment of a general plan"
23 when the decision, in the manner described in Government Code sections 65301 and

1 65301.5, grants approval of, substitutes for, or modifies any component of, a general
2 plan, including elements, a statement of development policies, maps, diagrams, and texts,
3 or any other component setting forth objectives, principles, standards, and plan proposals,
4 as described in Government Code sections 65302 and 65303.

5 (2) “General plan” means “general plan” as used in Government Code, Title 7
6 (Planning and Zoning), Division 1 (Local Planning), Article 5, sections 65300, et seq.

7 (3) “Specific plan or its equivalent” means a “specific plan” or any equivalent
8 plan adopted by the jurisdiction to meet the purposes described in Government Code,
9 Title 7 (Planning and Zoning), Division 1 (Local Planning), Article 8, sections 65450, et
10 seq.

11 ~~(e)~~ (d) Determining the applicable materiality standard.

12 (1) If the real property in which the public official has an economic interest is
13 directly involved in a governmental decision, apply the materiality standards in ~~Title 2,~~
14 ~~California Code of Regulations, 2 Cal. Code Regs.~~ section 18705.2(a).

15 (2) If a real property interest is not directly involved in a governmental decision,
16 apply the materiality standards in ~~Title 2, California Code of Regulations, 2 Cal. Code~~
17 ~~Regs.~~ section 18705.2(b).

18 NOTE: Authority cited: Section 83112, Government Code.

19 Reference: Sections 87100, 87102.5, 87102.6, 87102.8 and 87103, Government Code.

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